

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff	§	
	§	
v.	§	No. 3:22-CV-01692
	§	
HALL'S LONG TERM CARE	§	
PHARMACY, INC. d/b/a	§	
CARE MART PHARMACY,	§	
	§	
Defendant	§	

COMPLAINT

The United States of America files its Complaint against the Defendant Hall's Long Term Care Pharmacy, Inc. d/b/a Care Mart Pharmacy.

I.

Jurisdiction and Venue

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345.

2. Defendant Hall's Long Term Care Pharmacy, Inc. d/b/a Care Mart Pharmacy is a resident of the Northern District of Texas and presently resides within this judicial district with the following last known address or principal office:

c/o Lewis Hall Jr., Registered Agent
708 Pennsylvania Avenue
Fort Worth, Texas 76104

Therefore, venue lies in this Court under 28 U.S.C. § 1391(b).

II.

Background Facts

1. The Defense Health Agency (“DHA”) administers a medical and dental health benefits system for military personnel established in Chapter 55 of Title 10 of the United States Code, 10 U.S. C. §§ 1071 *et seq.* TRICARE is part of that system that provides medical benefits for military personnel.

2. Defendant provided covered services under the TRICARE program and was reimbursed for those services.

3. An agent of TRICARE properly notified Defendant of its decision that Defendant had been paid more than was legally permissible under the TRICARE program and offered Defendant an opportunity to appeal this decision. A true and correct copy of the decision is attached as Exhibit A and the details of the overpayment are incorporated herein as if fully set out.

4. The United States, through its operation of the TRICARE program paid Defendant certain sums of money to which it was not entitled, and Defendant is thus liable under the law of recoupment and unjust enrichment to return such amounts to the United States.

5. After all lawful offsets and credits, Defendant has received an overpayment of \$13,188.00 in benefits as set forth in the Certificate of Indebtedness (“COI”) attached hereto and made a part hereof as Exhibit B.

6. As set forth in the attached COI, interest has accrued on the assessed penalties in this Notice, as provided by 31 U.S.C. § 3717(a)-(d), and non-payment

penalties and administrative costs have been added to the assessed penalties in this citation, as provided by 31 U.S.C. §§ 3711(g)(6)-(7); 3717(e); 31 C.F.R. §§ 285.12(j); 901.1(f).

7. As of June 1, 2022 Defendant is indebted to the United States in the amount of \$21,406.25 (principal, interest, non-payment penalties and administrative costs) for the overpayments as set forth in the Certificate of Indebtedness.

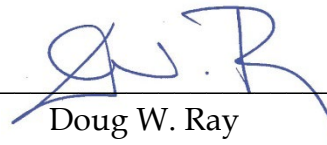
III.

Demand

The United States respectfully requests judgment against Defendant Hall's Long Term Care Pharmacy, Inc. d/b/a Care Mart Pharmacy in the amount of \$21,406.25. The United States further requests prejudgment interest and non-payment penalties as allowed by law from June 2, 2022 to the date of judgment, post-judgment interest, its costs of suit and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

RAY & WOOD

By  _____
Doug W. Ray
State Bar No. 16599200

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Austin, Texas 78746
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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA



EXPRESS SCRIPTS®

Express Scripts, Inc.
P.O. Box 66505
St. Louis, MO 63166-6505

August 18, 2019

Care Mart Pharmacy
[REDACTED]

Principal: \$14,790.68
Tax ID: 752902352
NCPDP #: 4526553

Dear Care Mart Pharmacy:

On July 19, 2019, we sent you a letter stating there was an overpayment in the amount of \$14,790.68. As of today, your current balance is \$14,790.68.

On the check(s) listed below we sent you payment to cover services furnished to TRICARE beneficiaries during that remittance cycle. This was for pharmaceutical claims processed for TRICARE beneficiaries in the normal course of business. However, this check(s) represents an overpayment of \$14,790.68.

<u>Check No.</u>	<u>Check Date</u>
—	6/19/2019

On the June 19, 2019 remittance, claim reversal(s) were created due to a retroactive adjustment, which other claims were not available to fully offset. These reversals created an overpayment. Subsequent remittances have not resulted in the full offset of the original overpayment. At this time we are required by TRICARE to send this letter advising you of the overpayment and make you aware of your rights. We regret any inconvenience that this error may have caused.

The Federal Claims Collection Act, beginning at 31 U.S.C. 3701, requires that federal agencies, including DHA, collect government funds which were mistakenly issued from their accounts. Further, government agencies are required to collect interest on all delinquent debts at the rate of 1 percent per year. Interest charges will be waived if this debt is paid in full within 30 days from the date of this letter. If payment is not made within 30 days, interest will accrue from the date of this letter. If the claim(s) on which this recoupment action is based was assigned to a participating provider, both the provider and the TRICARE beneficiary have the right to appeal this determination. If the claim(s) was not assigned, only the beneficiary may appeal this determination.

Additionally, federal agencies are required to assess a penalty charge, not to exceed 6% per year, upon any portion of the amount you owe that is delinquent for more than 90 days, and administrative costs, based upon the costs incurred in processing and handling the case because it became delinquent.

Finally, we are required to annotate your records to enable us to collect the erroneous payment by administrative offset against future TRICARE claims. No such offset action will be taken for 60 days from the date of this letter, however. Since the possibility of offset against your TRICARE claim exists, we are required to provide the following information to you.

You have the right to inspect and copy all records pertaining to this debt. If you believe this determination regarding your TRICARE coverage is incorrect or dispute the amount of the debt as calculated herein, you have a right to request an administrative review of the indebtedness.

For the purposes of this recoupment action, your right to an administrative review includes your right to a

Reconsideration under the regulation which govern TRICARE appeals (32 CFR 199.10). If you request an administrative review, you will be advised if you have further appeal rights to DHA.

Your request must be in writing and must be received by this office within 90 days from the date of this letter. Your request should state specific reasons for believing that you believe you are not indebted for any amount listed herein, and should be accompanied by supporting documentation, such as bookkeeping and medical records, and a copy of this letter. If you wish to request a waiver based upon an inability to pay, you will be required to complete a financial affidavit. If it then appears that you are financially unable to make a full refund at this time, you may be afforded an opportunity to enter into a written agreement for repayment of the debt. Please note, however, that any payment plan will include an interest charge at the rate specified above.

Payment of the total amount shown above within 30 days is considered payment in full. To satisfy your debt immediately, send a check or money order for the total amount, made payable to TRICARE, to Express Scripts Inc. in the enclosed self-addressed envelope. If payment is not received within 30 days, interest and other late charges will accrue.

Your cooperation and prompt attention to this matter is very much appreciated.

Sincerely,

Nicole Gully

Nicole Gully
Business Analyst, Government Finance
Preferred method of contact: ngully@express-scripts.com
Telephone: (314) 684-7820
Fax: (888) 802-4296

Enclosures:
Detail of Overpayment
Self-addressed Envelope

Case A4526553I0000190718

Detail of Overpayment

A4526553I0000190718

Date of Report: 8/15/2019

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Care Mart Pharmacy

4526553

FUND TYPE	NCPDP	SCRIPT NO	FILL DATE	ICN	ING COST	DISP FEE	TAX	COPAY	PD AMT	CHECK DATE	CHECK NO	Reversal Reason
Reversals												
A	4526553	100007	7/28/2016	2018360TX WYZ3R	(\$2,391.07)	\$0.00	\$0.00	\$0.00	(\$2,391.07)	6/19/2019	0	
A	4526553	100016	8/1/2016	2018360TX Z3YTR	(\$2,391.07)	\$0.00	\$0.00	\$0.00	(\$2,391.07)	6/19/2019	0	
A	4526553	100027	8/4/2016	2018360TX ZCX4K	(\$2,391.07)	\$0.00	\$0.00	\$0.00	(\$2,391.07)	6/19/2019	0	
A	4526553	100074	8/25/2016	2019046TX JNBBK	(\$2,391.07)	\$0.00	\$0.00	\$0.00	(\$2,391.07)	6/19/2019	0	
A	4526553	100094	9/12/2016	2019046TX DDVCV	(\$2,391.07)	\$0.00	\$0.00	\$0.00	(\$2,391.07)	6/19/2019	0	
A	4526553	100099	9/16/2016	2018360TX TFZLY	(\$2,391.07)	\$0.00	\$0.00	\$0.00	(\$2,391.07)	6/19/2019	0	
A	4526553	100074	9/28/2016	2019046TX 9V8BR	(\$444.26)	\$0.00	\$0.00	\$0.00	(\$444.26)	6/19/2019	0	
Total Reversals					(\$14,790.68)	\$0.00	\$0.00	\$0.00	(\$14,790.68)			
Current Balance					(\$14,790.68)	\$0.00	\$0.00	\$0.00	(\$14,790.68)			



DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227

ACTING ON BEHALF OF
DEPARTMENT OF DEFENSE
DEFENSE HEALTH AGENCY
CERTIFICATE OF INDEBTEDNESS

Care Mart Pharmacy
915 W Belknap St Ste 105
Fort Worth, TX 76102

EIN: 75-2902352

Agency Claim No: TRFM13789795

I hereby certify, as part of my duties with the U.S. Department of the Treasury (Treasury), including referring matters to the U.S. Department of Justice (DOJ) for litigation, I am a custodian of records of certain files sent by the United States Department of Defense (DoD) to Treasury for collection actions. As a custodian of records for Treasury, I have care and custody of the file of Care Mart Pharmacy, (DEBTOR) to DoD.

The information contained in this Certificate of Indebtedness is based on documents created by an employee or contractor of DoD based on his/her knowledge at or near the time the events were recorded, including the review of the delinquency of overpayments, or by an employee or contractor of Treasury based on his/her knowledge at or near the time the events were recorded, including the review of the delinquency of overpayments. Treasury's regular business practice is to receive, store and rely on the documents provided by DoD, when, debts are referred to Treasury for collection activities, including litigation.

On September 17, 2019, DoD determined the DEBTOR delinquent for an overpayment in the amount of \$14,790.68 with an annual interest rate of 1.00%. DoD sent the DEBTOR letters advising of the overpayment and requesting payment to no avail. The DEBTOR had offsets totaling \$1,602.68 which reduced the delinquent debt amount to \$13,188.00.

The DoD referred the claim to the Treasury's Bureau of the Fiscal Service, Debt Management Services (DMS) to collect the delinquent debt on November 6, 2020. DMS issued a demand letter to the DEBTOR on November 9, 2020, to which the DEBTOR did not respond. Further, I certify that I am familiar with Treasury's record keeping practices, including the receipt of files from the DoD.

On May 23, 2022, DMS referred the claim to DOJ for litigation and collection in the amount due of \$13,188.00 with daily interest of \$0.37 and daily penalty of \$2.17. As of June 1, 2022, the DEBTOR is indebted to the United States in the amount stated as follows:

Principal:	\$ 13,188.00
Interest (@1.00%):	\$ 367.81
Penalty (@6.00%):	\$ 2,137.54
Administrative Costs:	\$ 5,712.90
Total:	\$ 21,406.25




DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227

ACTING ON BEHALF OF
DEPARTMENT OF DEFENSE
DEFENSE HEALTH AGENCY
CERTIFICATE OF INDEBTEDNESS

The balances stated in the case listed above are current as of June 1, 2022, including any applicable interest, penalties, administrative fees, and DMS & DOJ (pursuant to 31 U.S.C. §§ 3717(e) and 3711(g)(6), (7); 31 C.F.R. 285.12(j) and 31 C.F.R. 901.1(f); and 28 U.S.C. § 527 note).

Pursuant to 28 U.S.C. § 1746(2), I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief based upon information provided by the DoD and information contained in Treasury's records.

X 

Signed by: Bureau of the Fiscal Service
Ashleigh Edmonds
Financial Program Specialist
U.S. Department of Treasury
Bureau of the Fiscal Service